REMARKS

Claims 1-9 are pending and the remaining claims have been canceled without prejudice. Claim 1 has been amended to delete "determining ..." so that claim 1 corresponds to Figure 4. It is respectfully requested that the remaining claims be reconsidered based upon the following. The remaining claims concentrate on the issues for the appeal, if one should result.

35 U.S.C. § 112 Claim Rejections

The bulk of this rejection is based upon use of the word "determining." With the amendment to claim 1, this rejection is mooted. The rejection merely mentioning that the word "comparing" as "other than indicating the claimed invention as obvious" is not sufficient. The specification fully complies with 35 U.S.C. § 112.

The present invention as fully recognized by the rejection and fully stated at page 6, lines 28-29 does have an alternate embodiment wherein the user's computer can be placed "in sync" with the official time of the online auction. That is where the computer's time becomes the auction time. The earlier discussion concerning this is incorporated herein by reference. This alternate embodiment is based on the situation where, for example, a group of individuals could physically reset their wristwatch to the group leader's wristwatch clock setting. While this is an alternate embodiment, it is certainly not a preferred embodiment as each time the user of a computer accesses the auction online service the processor time for the computer displayed in the lower left hand corner changes.

The claim language of the remaining claims are fully supported under the requirements of 35 U.S.C. § 112.

35 U.S.C. § 112 (Second Paragraph)

Again, claim 1 is rejected with respect to the word "determining" which is now rendered moot by the amendment to claim 1. Again, it is believed to be improper to equate the word "determining" to "syncing."

At this point, it is respectfully requested that the applicant's present invention as set forth in the pending claims, be given consistent examination. See the U.S. House of Representatives, Committee on the Judiciary Subcommittee on Courts, the Internet and Intellectual Property, "Oversight of the U.S. Patent and Trademark Office," April 20, 2002 where

Chairman Coble emphasized detailed training of Examiners to promote "consistent examination results." Attention is directed to U.S. Patent No. 6,799,167 (Primary Examiner Jeffrey A. Smith) with respect to use of the word "comparing" in claim 18 and in the specification at column 6, line 29 ("... the computer program determines and compares ..."). Also in 5,679,002 (Primary Examiner Jeffery A. Smith), note the use "compares" in claim 1 and the only use of "comparing" in the specification at column 5, line 42. Applicant's use of the word "comparing" in the present application is consistent with issued claims and disclosures of issued patents. It is maintained that the present series of Office Actions are inconsistent with accepted examining practice as to what is understood by one skilled in the art of the applicant's present invention. The use of the word "comparing" is well understood by programmers and Internet designers especially in the online auction business.

It is respectfully requested that consistency of examination occur.

Claim Rejections - 35 U.S.C. § 103

Claim 1 is rejected based upon Hess and Schreurs. It is recognized Hess does not disclose or teach the critical claimed "obtaining processor time in the computer of the bidder" and "comparing in the computer of the bidder the obtained processor time to the obtained official time."

Likewise Schreurs in the rejection is only used for "synchronization." Claim 1 does not set the computer of the bidder to the computer time of the auction! In the above classic military example of each soldier synchronizing their individual watches to the group leader's wristwatch, (i.e., Schreurs), this is not the claimed invention. If the group leader told everyone to set their watches to 12:00, this would not occur in the present invention. Rather, an individual's wristwatch may be off by three minutes so that the action time is not 12:00 on his watch but 11:57 on his watch. Rather than synchronize his watch to the group leader's watch, the individual compares the time on the group leader's watch to his time and determines he is three minutes off and vows to remember that the action time is 11:57 on his watch. His watch has not been synchronized! Likewise under the teachings clearly set forth herein and clearly claimed, the bidder's processor is not reset or synchronized to a command from the auction processor, but rather, the auction time is compared to the processor time and the end of auction time left is then displayed in processor time. And, in one claimed embodiment, in the form of a countdown

clock. This is not synchronization nor is it taught in any of the cited references! Where a bidder's processor is in a different time zone, it becomes very confusing to that bidder when the auction occurs one or two hours different. Hence, the importance of the present invention. This is not synchronization! Synchronization teaches away from the claimed invention.

More importantly under the law, there is no suggestion in either reference to incorporate the references of each other whatsoever. The motivation discussed simply is not found in the reference and the Rejection only uses hindsight based upon the teachings of the present invention to reconstruct and improperly mold the teachings of the two references into the claimed invention.

With respect to the rejection of claims 2 and 3 based upon Hess, Schreurs and further in view of Ferguson the arguments set forth above are incorporated by reference. Ferguson is not related to an online auction and its teaching of a graphical clock face icon is acknowledged. However, when claims 2 and 3 are read into claim 1, it is patentably distinct over the three cited references. There certainly is no motivation to ever incorporate a clock face of Ferguson into a synchronization process of Schreurs. Bits and pieces from different fields of technology are being woven together through hindsight and such a rejection is not permitted by the law.

Claims 4-9 are rejected in view of Hess, Schreurs and Ferguson as well as Nguyen for a total of four references. Again, because of the patentable differences, previously discussed and incorporated by reference herein, with respect to Hess and Schreurs, these dependant claims are patentably distinct. These claims offer critical functionality contrary to the representation made in the rejection, of convenience to the bidder in one or more auctions. Simply glancing at the graphical icon informs the bidder rapidly of how much time is left.

Examiner's Response to Arguments

The Applicant herein refers the Examiner to the aforesaid U.S. Patent 5,679,002 and respectfully requests consistency in examination. Furthermore, time and again over the last several rejections, the Examiner states that he fully understands the operation of the invention for purposes of applying numerous different references and, yet, seeks to force his own definition of synchronization. The claims in this application are not synchronizing the processor time with the auction time. Rather, comparison between the two times occurs and the time left,

in processor time, is displayed on the bidder's computer such as in a convenient countdown clock format.

Should you have any questions regarding the above, please feel free to give the below-listed attorney a call. If additional fees are required, please debit our Deposit Account No. 04-1414.

Respectfully submitted,

DORR, CARSON, SLOAN, BIRNEY & KRAMER, P.C.

Date: 12/2/04

By: Robert C Dorr

Robert C. Dorr
Reg. No. 27,782
3010 East 6th Avenue
Denver, Colorado 80206
(303) 333-3010

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